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19 *Future Motion, Inc.*

20 UNITED STATES DISTRICT COURT

21 DISTRICT OF NEVADA

22 FUTURE MOTION, INC.,

23 Case No.: 2:16-cv-00013-MMD-CWH

24 Plaintiff,

25 v.

26 CHANGZHOU FIRST INTERNATIONAL  
27 TRADE CO.,

28 Defendant.

29 DECLARATION OF KYLE JONATHAN  
30 DOERKSEN IN SUPPORT OF  
31 PLAINTIFF'S EMERGENCY MOTION  
32 FOR AN EX PARTE TEMPORARY  
33 RESTRAINING ORDER, SEIZURE  
34 ORDER AND PRELIMINARY  
35 INJUNCTION

36 I, Kyle Jonathan Doerksen, declare as follows:

37 1. I make this declaration in support of Future Motion, Inc.'s Motion for a Temporary  
38 Restraining Order, Seizure Order and Preliminary Injunction. The statements I make in this  
declaration are based on my personal knowledge, observations, and experience, unless otherwise  
noted. I am qualified and willing to testify to the matters stated below.

1       2. I am the founder and CEO of Future Motion, Inc. (“Future Motion”). Prior to  
2 founding Future Motion in 2013, I co-founded another technology start-up and also worked for  
3 almost a decade as a design engineer and project manager for a design consulting firm. I hold a  
4 B.S. degree in Neuroengineering and an M.S. degree in Mechanical Engineering, both from  
5 Stanford University.

6       3. Future Motion sells the ONEWHEEL® self-balancing electric vehicle, which  
7 resembles a skateboard with one large central wheel that extends above and below the board.  
8 The wheel is driven by an electric motor, which is controlled in response to the orientation of the  
9 board. Thus, the board propels itself in whatever direction the rider leans. Attached as Exhibit 1  
10 to my declaration is a copy of the Future Motion web page from which customers can order  
11 ONEWHEEL®. Attached as Exhibit 2 to my declaration is a copy of the ONEWHEEL® user’s  
12 manual that Future Motion makes publicly available on its website.

13       4. I created Future Motion’s ONEWHEEL® product, and I am the sole inventor  
14 named on U.S. Pat. Nos. 9,101,817 (“the ‘817 patent”) and D746,928 (“the ‘928 patent”), which are  
15 the patents Future Motion is asserting in this action. I have assigned ownership of both of these  
16 patents to Future Motion.

17       5. I am familiar with the CES show, having attended it in the past as an exhibitor. In  
18 fact, I introduced Future Motion’s ONEWHEEL® product at CES in January, 2014. Since then,  
19 ONEWHEEL® has received a large amount of positive press coverage, including complimentary  
20 reviews and reports broadcast or published by NBC, CNN, Bloomberg, Yahoo, Business Insider,  
21 the Wall Street Journal, Engadget, Wired, and Playboy, among others.

22       6. Future Motion is a start-up company, and ONEWHEEL® is the company’s first  
23 product. The product has been sold to customers throughout the United States and in at least 44  
24 other countries. It generated more than \$3M in revenue for Future Motion in 2015.

25       7. The 2016 CES show will be held at multiple venues in Las Vegas from January 6-  
26 9, 2016. The show has been held annually for more than 40 years, and is widely viewed as one  
27

1 of the most important annual trade shows in the world. Companies of all sizes showcase their  
2 innovative products at CES, as well as establishing new customers and distribution channels.

3       8. In my experience, companies attend CES to exhibit their products and conduct  
4 business. Accordingly, exhibitors typically come to CES to solicit new customers, take product  
5 orders, and generally offer their products for sale. In some circumstances, a deal may be  
6 completed on the show floor. At other times, deals are completed off-site at separate conference  
7 or hotel rooms.  
8

9       9. Representatives from Changzhou International Trade Co., Ltd. (“Changzhou”)  
10 must have spent thousands of dollars to fly to Las Vegas from China with their products and to  
11 rent a booth at CES, and will naturally be exhibiting at CES hoping to recoup these expenses by  
12 conducting business and offering their products for sale.  
13

14       10. In my experience, CES booth rental cost alone starts at several thousand dollars  
15 per booth, and the 2016 CES exhibitor’s list indicates that Defendant appears to have rented three  
16 booths at this year’s event, one of which will display the “Surfing Electric Scooter” product at  
17 issue in this action.  
18

19       11. Defendant has distributed an advertising flyer, a copy of which was forwarded by  
20 email to the attention of Future Motion, which advertises the Changzhou “Surfing Electric  
21 Scooter” and invites potential customers to visit Defendant’s booth at CES where it will be  
22 showing the product and presumably offering it for sale. Exhibit D to the Complaint in this  
23 action is a copy of the Changzhou flyer obtained by Future Motion.  
24

25       12. Based on the advertising flyer and Changzhou’s publicly available description and  
26 photos of the product on its website and its Alibaba.com web page (Declaration of Shawn J.  
27 Kolitch in Support of Plaintiff’s Emergency Motion (“Kolitch Decl.”), Ex. 2-3), the Changzhou  
28 “Surfing Electric Scooter” appears to me to be an intentional and virtually exact copy of Future  
Motion’s ONEWHEEL® product.  
29

30       13. I have reviewed the drawings of U.S. Pat. No. D746,928 (Complaint Ex. A). Based  
31 on Changzhou’s product description and photos, in my opinion the Changzhou “Surfing Electric  
32

1 Scooter” embodies the design claimed by the patent. I believe an ordinary observer would not be  
2 able to differentiate between the design claimed by the ‘928 patent, the “Surfing Electric Scooter,”  
3 and Future Motion’s ONEWHEEL® self-balancing electric vehicle.

4 14. I have reviewed a copy of U.S. Pat. No. 9,101,817 (Complaint Ex. B), including the  
5 claims. In my opinion, the Changzhou “Surfing Electric Scooter” necessarily includes all of the  
6 elements of at least claims 1, 5 and 7 of the patent under the plain and ordinary meaning of the  
7 language of those claims, and therefore literally infringes the claims.  
8

9 15. I am not aware of any evidence that would tend to anticipate the design claimed in  
10 the ‘928 patent or the invention claimed in the ‘817 patent.  
11

12 16. ONEWHEEL® has enjoyed significant commercial success, with more than  
13 \$630,000 raised in Future Motion’s initial Kickstarter campaign in a three-week period in 2014  
14 (out of a goal of just \$100,000), and more than \$3M in revenue generated in 2015, which was the  
15 first full year of sales.  
16

17 17. Changzhou’s “Surfing Electric Scooter” is competing with the Future Motion  
18 ONEWHEEL® product for the same customers. As far as I can determine from publicly  
19 available marketing materials, Changzhou is making a product designed to look and function  
20 exactly like the Future Motion ONEWHEEL® product and patented design, and to compete  
21 unfairly with the ONEWHEEL® product.  
22

23 18. Unless Defendant is restrained from exhibiting and offering to sell its infringing  
24 “Surfing Electric Scooter” products at the CES show, Future Motion will suffer immediate and  
25 irreparable harm in the form of a loss of market share that Future Motion might never recover, a  
26 likely increase of infringement from other sources based on the failure to stop this Defendant,  
27 general erosion of Future Motion’s intellectual property rights, and unquantifiable damage to  
28 Future Motion’s reputation, based on unfair competition from lower priced products of unknown  
quality.  
29

30 19. Future Motion’s office is located at 2881 Mission Street, Santa Cruz, California,  
31 95060. Future Motion may be contacted through its counsel using the following contact  
32

information. Lead counsel: Shawn Kolitch; email: shawn@khpatent.com; phone: (503) 317-5983.  
Nevada counsel: W. West Allen; email: WAllen@lrrc.com; phone: (702) 949-8230.

3       20. According to its website, Changzhou is a Chinese corporation with a business  
4 address of Changzhou First International Trade Co., Ltd., Longyu Western Road No. 28, Wujin,  
5 Changzhou, China. Defendant's website also provides the contact phone number 86-0519-  
6 81291669 and the contact email address leo@changzhou-first.com.  
7

8        21. I visited the Changzhou booths at the CES show on January 6, 2016 and observed  
9 that Changzhou was exhibiting the infringing “Surfing Electric Scooter” products at one of its three  
10 CES booths, no. S2-25436. I observed at least four units of the infringing products, banners  
11 advertising the products, and product literature being freely distributed. My observation confirmed  
12 my opinion that the “Surfing Electric Scooter” copied my product design and infringes my U.S.  
13 patents.

14           22. I declare under penalty of perjury under the laws of the United States of  
15 America that the foregoing is true and correct.  
16

17 || Executed on January 6, 2016, at Las Vegas, NV.

Karen

Kyle Jonathan Doerksen  
Founder and CEO,  
Future Motion, Inc.